

COMMISSION OF INQUIRY REGARDING
THE PREVENTION OF PUBLIC VIOLENCE
AND INTIMIDATION

INTERIM REPORT ON THE VIOLENCE AT THE MOOI RIVER

GOLDSTONE REPORT; GK - 2

NOT TO BE ISSUED

9K2

The State President

THE COMMISSION OF INQUIRY REGARDING THE PREVENTION OF PUBLIC
VIOLENCE AND INTIMIDATION HAS THE HONOUR TO PRESENT AN INTERIM
REPORT ON THE VIOLENCE AT MOOI RIVER

R.J. GOLDSTONE

CHAIRMAN OF THE COMMISSION

CAPE TOWN

19 FEBRUARY 1992

1. Enclosed herewith is a report from the Committee established under section 4(a) of Act 139 of 1991 to inquire into the violence that occurred at Mooi River on 3 and 4 December 1991.

2. The report of the Committee was accepted by the Commission.

3. On the basis of the report of the Committee, the Commission unanimously makes the following recommendations:

3.1 REGARDING THE POLICE

3.1.1 The policy regarding the carrying of dangerous weapons in public should be determined and made public as a matter of urgency. There appears to be confusion on the part of the public and the police as to the carrying of weapons at cultural or traditional occasions, on the one hand, and the carrying of dangerous weapons whether for self-defence or for offensive or aggressive purposes, on the other hand. While the former may be tolerated under properly controlled circumstances, the Commission has no doubt that the latter, i.e. carrying weapons for non-cultural purposes cannot be tolerated if normal and peaceful conditions are to prevail in our society. The Commission finds it quite unacceptable that men in the Mooi River/Bruntville area walk the streets (and indeed attended the hearings in the Town Hall) carrying spears

and sticks. The law obliges the police to confiscate such weapons and prefer criminal charges against such persons. That should be made clear. At the same time the police must obviously provide adequate protection, for example to workers walking between Bruntville and the Mooi River Textiles Factory. This whole issue forms the subject-matter of the wider terms of reference of the Committee on Mass Demonstrations and will be reported on further in due course.

3.1.2 Having regard to the build-up of violence over a period of months, there should clearly have been more efficient and more sensitive leadership of the police and security forces in the area. A suitable senior police officer should be appointed at Mooi River as a matter of urgency and clear lines of command established.

3.1.3 The practice referred to in the report of conducting raids without warrants, in plain clothes and in a vehicle bearing false number plates should be prohibited forthwith. Such procedures, apart from being unlawful, cannot serve any proper or useful purpose and, in addition, can only fuel rumours and theories about a "third force" being responsible for much of the violence in South Africa. The explanation for this conduct given by the police witnesses was unsatisfactory and contradictory.

3.1.4 Procedures should be implemented for the more efficient gathering of evidence, even in riot situations, so that criminal conduct will result in efficient prosecution. Such procedures should be planned with the assistance of the attorneys-general.

3.1.5 The evidence suggesting and perceptions that members of the Police Force favour IFP supporters is a matter of concern and if correct will serve to aggravate negative attitudes towards the police by many members of the community that the police are serving. Urgent and effective steps should be taken to educate and explain to all members the absolute necessity of unbiased policing. This is especially important in areas such as Mooi River and many other parts of Natal in which there are strong group rivalries.

3.1.6 If, as is hoped, the new Local Dispute Resolution Committee continues to operate, it is strongly recommended that the whole question of policing in the area should be undertaken in consultation with that committee. In that way there is a greater prospect of obtaining community support for the efforts of the police.

3.2 REGARDING SOCIO-POLITICAL MATTERS

3.2.1 The Commission recommends that time, money and effort should be expended in making a success of the peace initiative

at Mooi River. If one good example can be set it could well lead to positive solutions in other areas.

3.2.2 It is against this background that the Commission urges Government, the Natal Provincial Administration, the Mooi River Council and Mooi River Textiles to provide funding or to identify sources of funding in order to implement acceptable and constructive solutions that may be agreed upon by the Local Dispute Resolution Committee.

3.2.3 The Commission is of the view that the national and provincial political leaders of the IFP and the ANC should play a prominent role in encouraging the process of working for peace. The Chairman of the Commission requested the national chairmen of the IFP and the ANC to publicly welcome the Mooi River peace initiative. If they did respond to that request no evidence thereof has reached the Commission.

3.2.4 The Commission has had regard to the press coverage in Natal of the violence at Mooi River. Inaccurate and unchecked information and rumours were disseminated by both ANC and IFP spokespersons. This was regularly reported in the newspapers. The Commission recommends that political and other organisations should take cognisance that inaccurate reports of violence in themselves frequently result in an escalation of violence. The Commission appeals to the leadership of both organisations to exercise greater restraint and care in this regard.

3.2.5 In these highly sensitive and volatile matters the press also has a special duty to report the facts and to report them accurately and responsibly. With regard to the inquiry itself there were instances of inaccurate and careless reporting.

3.2.6 The Local Dispute Resolution Committees at Mooi River and elsewhere may well consider educational programmes that all representatives visibly support in order to inculcate in the local inhabitants a tolerance for conflicting views and affiliations. Again, the Commission would stress the need for strong leadership in this regard.

4. CONCLUSION

4.1 It was indicated to the Committee that if lasting solutions and peace do not come to Mooi River, the only large employer, Mooi River Textiles, may well have to move its factory to another area. This would be disastrous for the people of Mooi River. Self-interest should dictate to the local leadership that they must work together to create a more peaceful and acceptable climate. Government agencies at all levels can only provide a framework and an infrastructure for this. At the end of the day it is the people themselves, through their leaders, who will determine the success or failure of any initiatives taken in order to achieve a successful result.

4.2 Support from all appropriate quarters for the Local Dispute Resolution Committee and the disarming of the people of Bruntville are essential prerequisites for lasting peace in the area.

4.3 It was submitted on behalf of the Bruntville Peace Committee that the Commission should recommend that the conduct of certain members of the Police Force at Mooi River be referred to the Attorney-General. However, evidence led before the Committee did not, in the opinion of the Commission, establish any prima facie unlawful conduct on the part of any police officer save in regard to the improper use of a forfeited vehicle with false number plates. In respect of this last-mentioned matter (see para. 3.1.3 above) the Commission recommends that appropriate steps be taken to prevent the recurrence of such conduct and that the South African Police consider disciplinary action against the police officers who were involved.

4.4 The Commission recommends further that the South African Police make every endeavour to bring the perpetrators of the violence committed at Mooi River to justice and that the Attorney-General be requested to render assistance in that regard.

The Commission

REPORT TO THE COMMISSION OF INQUIRY REGARDING THE PREVENTION OF
PUBLIC VIOLENCE AND INTIMIDATION FROM THE COMMITTEE ESTABLISHED
TO INQUIRE INTO THE EVENTS AT MOOI RIVER ON 3 and 4 DECEMBER
1991

R.J. GOLDSTONE
CHAIRMAN OF THE COMMITTEE

MR D.J. ROSSOUW, SC
MEMBER OF THE COMMITTEE

PROF. D. VAN ZYL SMIT
MEMBER OF THE COMMITTEE

CAPE TOWN
10 FEBRUARY 1992

INTRODUCTION

1. The Commission of Inquiry regarding the Prevention of Public Violence and Intimidation established a committee to inquire into mass demonstrations.

2. The Committee is constituted as follows :

Chairman : Mr Justice R.J. Goldstone

Members : Mr D.J. Rossouw, SC
Professor D. van Zyl Smit

3. During November 1991 the Commission received requests to inquire into the violence at Mooi River. At that time the volume of work already undertaken by the Commission made it impossible to accede to those requests. On 3 and 4 December 1991 there was a further upsurge in violence at Mooi River, which resulted in the death of 19 people. The Commission decided that the Committee on Mass Demonstrations should urgently inquire into the events of 3 and 4 December 1991. In the first place the violence at that time resulted from a form of mass action and the members were available to conduct the inquiry during the middle of January 1992.

4. The Committee held public hearings at the Mooi River Town Hall on 14, 15, 16 and 17 January 1992 and it heard submissions on behalf of the interested parties on 21 January 1992.

5. As a direct consequence of the hearings and as a result of an initiative taken by the Committee a local dispute resolution committee was established at Mooi River. That committee is operating under the auspices of the National Peace Secretariat and the Natal Regional Dispute Resolution Committee.

6. At the conclusion of the inquiry the Chairman gave an undertaking that the Commission would report urgently on, and make representations concerning the violence at Mooi River.

7. The wider issues raised by the violence at Mooi River will be considered by the Committee on Mass Demonstrations and it will report thereon in due course to the Commission. In this interim report the Committee will report only on matters considered by it to be urgent.

BACKGROUND FACTS REGARDING MOOI RIVER

8. Mooi River is situated some 70 km north-west of Pietermaritzburg. It is a small town serving a farming community.

9. On the south-western side of the town is Bruntville, a Black township that was established in 1938. At present there are between 10 000 and 14 000 persons living in the township. Many of the former inhabitants have left in consequence of the violence in the area. A number of the houses in the vicinity of the hostel have been burnt and are now deserted.

10. Bruntville is administered by the Natal Provincial Administration. It falls outside the area of administration of the KwaZulu Government.

11. A hostel for the accommodation of men living alone was established at Bruntville in about 1959. Over 1 000 men occupy the hostel.

12. The only employer of any consequence in the Mooi River area is Avtex Holdings Limited, trading as Mooi River Textiles. It is a company in the Anglo-Vaal Group. It employs approximately 1 200 workers, some 750 of whom live in the hostel. The other approximately 450 workers live outside the hostel in the township.

VIOLENCE AT MOOI RIVER

13. Prior to November 1990 it would appear that there was generally peace and tranquility at Mooi River and Bruntville. Since then the inhabitants of Bruntville have become highly politicised. There are broadly two groups - Inkatha Freedom Party (IFP) supporters and African National Congress (ANC) supporters. The hostel is, to all intents and purposes, controlled by IFP supporters and the remainder of Bruntville by ANC supporters. Workers at Mooi River Textiles who support the IFP are members of UWUSA, the trade union established by the IFP, and those who support the ANC are members of SACTWU, the trade union affiliated to COSATU.

14. In the submission to the Commission from the Legal Resources Centre on behalf of the Bruntville Peace Committee (which, broadly speaking, identifies with the ANC) dated 30 October 1991, it was alleged that from November 1990 to October 1991 there were at least 60 separate attacks or incidents of intimidation by the hostel dwellers upon the township residents. Reference was made to only four attacks by the residents on the hostel. On the other hand, the representatives of the KwaZulu Government, who were present at the inquiry, handed in a list of 59 alleged violent incidents by ANC supporters against IFP supporters.

15. The very substantial number of incidents alleged by both parties obviously made it impossible for the Commission or a committee of the Commission to investigate all of them. Such an exercise would not be justified and the time, effort and expense would not result in a commensurate benefit to anyone and more particularly would not contribute to finding solutions to the problems.

16. The committee was left in little doubt that since the end of 1990 there have been many incidents of violence initiated by supporters of both groups. There is also no doubt that the events of 3 and 4 December 1991 were an aggravated form of the violence that preceded them.

THE EVENTS OF 3 AND 4 DECEMBER 1991

17. It appears to be undisputed that IFP supporters launched two attacks on dwellers in Bruntville township - the first at about 18h00 on 3 December 1991 and the second at about 04h30 the following morning. The first attack left four persons dead and the second some 15 dead.

18. It is also not disputed that an IFP supporter, Nbuyiselwa Jophannes Mbatha, died from a gunshot wound sustained by him on 3 December 1991. According to the IFP witnesses he was shot in the vicinity of the hostel. It was submitted on behalf of the Bruntville Peace Committee that he might have been shot elsewhere and thereafter moved to outside the hostel where he died. However, nothing material turns on this issue.

19. Some few hundred men participated in the first attack by IFP supporters. They were armed with assegais, sticks and knobkerries. Many more men participated in the second attack. Estimates of witnesses varied from 400 to 1 000. They were similarly armed.

20. After the second attack the Police arrested 172 IFP supporters and confiscated their weapons. They comprised the following:

19 Zulu shields

2 pangas

1 home-made firearm

16 bush knives

75 knobkerries

69 sticks

144 spears

21. According to an ANC witness, a short time prior to the second attack he saw certain IFP leaders from outside Mooi River/Bruntville arrive at the hostel. They were followed by a bus-like vehicle that was towed by a mechanical horse. The suggestion made on the strength of that evidence is that IFP supporters were brought in from outside to participate in the attack on the township. The presence of the bus was denied by the hostel dwellers. The police witnesses did not see such a vehicle in Bruntville.

22. An investigation at the instance of the Committee is at present in progress in order to ascertain how many of these IFP supporters who were arrested were hostel dwellers. The result of this investigation will be material to the evaluation of the degree of planning in relation to the attack and whether there was support from outside the hostel.

THE ROLE PLAYED BY THE SECURITY FORCES

23. During November and the first few days of December 1991 policing duties within the area of Bruntville were in the hands of approximately 14 members of the Riot Unit of the SA Police, stationed at Pietermaritzburg. (This unit also patrolled other riot-torn areas such as Richmond and Hammarsdale during the same period.) The members rotated by serving about a week at a time before returning to Pietermaritzburg. While at Mooi River they were divided into three groups who worked 12-hour shifts. The police squad was supported by a number of troops of the SA Defence Force. The support consisted of patrolling the township, performing observation duties and generally assisting the police in the maintenance of peace. In the case of a joint operation the senior member of the Riot Unit was in command of both his own men and the Defence Force unit. However, according to the evidence of Capt. Dewing, the Station Commander at Mooi River, when he participated in a joint operation he took overall command.

24. The members of the SA Police stationed at Mooi River itself performed ordinary policing duties with respect to Bruntville. They also conducted raids for dangerous weapons in Bruntville.

25. Regular meetings were held at which the various branches of the SA security forces were represented. Although it is clear that the incidence of violence and its intensity mounted towards the end of 1991 (see paragraphs 3 and 16 above) there was no increase in the number of security force members at Bruntville. Nor did the Committee receive any evidence that this increase in violence was recognised in any forward planning by the security forces or in raising the level of experience of the commanders to deal with the increasingly serious situation. In fairness to Capt. Dewing, he did inform the Committee that he had requested additional support that was not forthcoming.

26. A factor that cannot be left out of consideration is the attitude on the part of the police with regard to the possession of dangerous weapons. To be fair, the confusion surrounding the carrying of what has been termed "cultural weapons" was passed down to the local security force members from higher officials. Statements in the media and from political platforms added to the confusion. In the result neither the local by-laws nor the provisions of the Natal Code of Zulu Law were applied. The Dangerous Weapons Act was apparently interpreted as not applying to "cultural weapons". AK 47 rifles were classified by the security forces as "dangerous weapons" and regular raids were conducted to search for them. The evidence was that the hostel dwellers predominantly carried "cultural weapons" and that these were not confiscated by the security forces. This state of affairs gave rise to a demonstration by residents on 1 December 1991.

27. The Committee received evidence adjudged to be reliable that strongly suggested a bias on the part of the South African Police in favour of the IFP. This is a perception prevalent among the residents of the township and would seem to be strengthened by this statement by Capt. Dewing in evidence: "I am aware that these clashes originated prior to my arrival and from my understanding of the situation may be attributed to differing political affiliations ... In my opinion I would hold the residents of Bruntville to be the instigators of these attacks and those of Inkatha are in retaliation."

28. It seems to the Committee that, while there may be special circumstances that occasionally justify searches for weapons during the night, the practice of forcefully raiding houses without search warrants in the middle of the night by policemen in plain clothes may well have added to the tension. Such raids can hardly be carried out tactfully (however much the purpose may be explained to the household members); implicit in their execution is an element that is often perceived as disrespect for the sanctity of the home. These factors generate hostility towards the police and feed the grievance, often expressed, that Black people are treated as second class citizens.

29. The injudicious use of strongarm tactics on the part of the police feeds a perception among both the public and members of the police that they are a law unto themselves. In the case in point at Mooi River this perception may already be a conviction. Not only are search warrants never applied for when

raids are to be carried out, but a vehicle that had been declared forfeit to the State was used for patrolling and searches, without the requisite permission, and with false number plates. The Committee can find no justification for this procedure.

30. An active policy to alter this approach should be followed. At the risk of sounding pedantic a good point of departure would be to accentuate the need for courtesy at all times to all people. In cases where the requirements for obtaining a search warrant are present that procedure should routinely be followed. The limitations on searches without a warrant should be strictly observed.

31. Whereas one has understanding for the confusion that accompanies the arrest of 172 people in a short time, the exercise may be adjudged to be futile if the subsequent prosecutions come to nought because the police failed to gather evidence efficiently. To obtain a conviction for the possession of a dangerous weapon the State must prove that the particular accused possessed such dangerous weapon. If there is no evidence (e.g. the testimony of the policeman who effected the arrest) that a particular accused possessed a particular weapon the prosecution will fail if the accused pleads not guilty. In the event, the arrest of the 172 persons (probably all IFP supporters) took place without them resisting arrest; their weapons as listed above in par. 20 were confiscated en masse and the opportunity of identifying the man with his weapon(s)

was lost. One can imagine the negative impact it will have in this situation if none or only a small number of those arrested are convicted. In the interests of the improvement of the existing negative perception of the system of justice and particularly the perception that the police (and in the minds of the people of Bruntville therefore the Government) are partial to the IFP, attention will have to be given to this matter by the police.

AN END TO THE VIOLENCE AT BRUNTVILLE

32. Considerable attention has been given to discussing the role of the security forces in the preceding paragraphs and criticism has been expressed in order that procedures may be evolved and action taken to improve the efficiency of the security forces.

33. The Committee in no way suggests that the security forces are to blame for the violence at Mooi River. The blame for that falls squarely on those who were participants in attack and counter-attack, irrespective of which party they support. Unless they come to the understanding that other people are entitled to have and express a view different to their own, that physical violence never changes people's convictions, and that tolerance and democracy are not just political slogans but norms actively to be practised, there will not be an end to violence at Bruntville.

The Commission

FURTHER REPORT TO THE COMMISSION OF INQUIRY REGARDING THE
PREVENTION OF PUBLIC VIOLENCE AND INTIMIDATION FROM THE
COMMITTEE ESTABLISHED TO ENQUIRE INTO THE EVENTS AT MOOI RIVER
ON 3 AND 4 DECEMBER 1991

R J Goldstone

R J GOLDSTONE
CHAIRMAN OF THE COMMITTEE

D J Rossouw

ADV D J ROSSOUW, SC
MEMBER OF THE COMMITTEE

D - van Zyl Smit

PROF D VAN ZYL SMIT
MEMBER OF THE COMMITTEE

CAPE TOWN
19 FEBRUARY 1992

A. CONDUCT AND RESULT OF THE INVESTIGATION MENTIONED IN PARAGRAPHS 21 AND 22 OF THE REPORT TO THE COMMISSION

1. The submission made to the Committee was that if IFP supporters had been brought into Bruntville some of them would have been among the 172 arrested by the Police. The representatives of both IFP and the Bruntville Peace Committee supported an investigation concerning the places of work and residence of the arrested men.

2. The investigation was conducted as follows :

(a) As a first step the names of those arrested were compared with a list of hostel dwellers supplied by the Bruntville administration and also with a list of employees furnished by Mooi River Textiles. Although it was ascertained that about 70 of those arrested resided in the hostel and worked at Mooi River, this method proved unsatisfactory and inconclusive.

(b) Four advocates of the Natal Bar were subsequently commissioned by the committee to trace approximately 100 of the 172 arrested men about whom there remained doubt whether they resided at the hostel and worked at Mooi River. The four advocates spent 6 and 7 February in the field, but the difficult and extensive terrain defeated the venture.

(c) On 14 February two members of the committee, Adv D J Rossouw and Prof D van Zyl Smit, and two members of the Commission-staff, Adv J J du Toit and Lt Col Heslinga, travelled to Mooi River where the 172 men appeared in court again for remand. After the court appearance 94 of the 100 men referred to above were questioned by the committee and staff members.

This investigation proved that, with one or two exceptions, all of the 172 persons arrested were hostel dwellers and that the vast majority were employed by Mooi River Textiles. It must therefore be concluded that IFP supporters were not transported into Bruntville from elsewhere to participate in the fighting on 4 December 1991.

3. The committee expresses its gratitude to the leaders of the Natal Bar for their assistance and especially to the four advocates who agreed, at short notice, to assist the Commission. The Commission is also grateful to the District Commissioner of the South African Police for Natal who arranged for four teams of policemen to assist the advocates and to the men who did so.

B. THE PEACE PROCESS AT MOOI RIVER

1. The committee also used the opportunity occasioned by its visit to Mooi River on 14 February 1992 to enquire into the

progress of the peace process in Mooi River and Bruntville. It was disappointed to find that the peace process had not gone as smoothly as planned. There appear to have been a series of misunderstandings between the parties which had led to meetings not being attended. Discussions with both local ANC and Inkatha leaders suggested that the misunderstandings could be removed and that it remains possible that a local dispute resolution committee will be established. The committee stressed that patience and tolerance were needed in the peace process, that direct communication with the other party was preferable to relying on rumour or press reports and that such communications should be relayed for the information of all residents.

2. In the discussions with the local leaders it became apparent that the carrying of weapons was continuing and that it was contributing to tensions both in Bruntville and in Mooi River. Thus, on one occasion, Inkatha supporters had been denied access by the ANC to the community hall where they were to have been addressed by the Chairman of the Regional Peace Committee for Natal. The reason given by the ANC was that the Inkatha supporters had arrived armed with spears and that the ANC had feared for the safety of its own supporters and for that of children in a neighbouring school. The IFP in turn alleged that its supporters had to be armed in order to protect themselves from the concealed weapons carried by members of the ANC.

3. The committee itself observed on 14 February that Inkatha hostel dwellers who attended court and the hearing of the committee were armed with spears and that they moved as a group in the town of Mooi River without the police taking any steps to disarm them.

4. It is the view of the committee that the peace process will be seriously hampered if dangerous weapons continue to be flaunted in public. Urgent steps must be taken to implement the recommendations of the Commission in this respect. (See paragraph 3.1.1 of its Report). In addition, the dispute resolution committee should, as soon as it is properly constituted, consider ways of allaying the fears of those who fear attack from parties bearing concealed weapons.